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**TITLE 329 SOLID WASTE MANAGEMENT
BOARD**

CONTINUATION OF FIRST NOTICE

LSA Document #05-296(SWMB)

**DEVELOPMENT OF AMENDMENTS TO RULES AT 329 IAC 10 CONCERNING CONSTRUCTION/DEMOLITION
WASTE AND CERTAIN PERMITTING REQUIREMENTS**

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at 329 IAC 10 concerning construction/demolition waste and certain permitting requirements. The First Notice asked for comments on amendments to rules at 329 IAC 10 concerning unrecognizable, crushed construction/demolition waste and changes to permitting requirements mandated under Senate Enrolled Act 279-2005. In addition to the subject matter in the First Notice, this Continuation of First Notice proposes further amendments to Article 10 relating to New Source Performance Standards. These changes are solely for the purpose of maintaining consistency with state and federal air pollution regulations, specifically to clarify municipal solid waste landfill (MSWLF) owner/operator responsibilities for closure and post closure requirements for gas extraction systems. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

CITATIONS AFFECTED: 329 IAC 10.

AUTHORITY: IC 4-22-2; IC 13-14-8-1; IC 13-14-8-2; IC 13-14-9; IC 13-15-2; IC 13-19-3-1; IC 13-19-4-1; IC 13-19-4-6; IC 13-30-2.

ADDITIONAL SUBJECT MATTER

In addition to the subject matter listed in the first notice of comment period published in the November 1, 2005 Indiana Register at 29 IR 693, comments are requested concerning language clarifying MSWLF requirements that reference and maintain consistency with state air pollution rules at 326 IAC 12-1-1(b)(1) that incorporate federal regulations at 40 CFR Part 60 Subpart Www and Cc.

Additional Alternatives to be Considered Within the Rulemaking

Alternative 4. In 329 IAC 10, add a reference to the Air Pollution Control Board rules regarding New Source Performance Standards at 326 IAC 12-1-1(b)(1), which incorporate by reference the federal rules at 40 CFR 60 Subparts WWW and Cc.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? Yes. 40 CFR Part 60 Subparts WWW and Cc.
- If it is a federal requirement, is it different from federal law? It is the same as the federal requirements.
- If it is different, describe the differences. N/A.

Alternative 5. Make no reference to air pollution standards so there is no reference or clarification in the rule.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Yes.
- If it is different, describe the differences. The state and federal New Source Performance Standards are not referenced.

Applicable Federal Law

40 CFR 60 Subparts WWW and Cc

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 4.

No fiscal impact as these provisions are already incorporated by reference under rules of the Air Pollution Control Board required under federal law.

Potential Fiscal Impact of Alternative 5.

No fiscal impact.

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under IC 13-28-3. The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with IC 13-28-3 and IC 13-28-

5, there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at www.in.gov/idem/ctap.

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf
IDEM Compliance and Technical Assistance Program
OPPTA - MC60-04
100 N. Senate Avenue, W-041
Indianapolis, IN 46204-2251
(317) 232-8578
selyusuf@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Eric Levenhagen
IDEM Small Business Assistance Program Ombudsman
External Affairs - MC50-01
100 N. Senate Avenue, IGCN 1301
Indianapolis, IN 46204-2251
(317) 234-3386
elevenha@idem.in.gov

Public Participation and Workgroup Information

At this time, no workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Kiran Verma, Rules, Outreach, and Planning Section, Office of Land Quality at (317) 232-8899 or (800) 451-6027 (in Indiana).

STATUTORY AND REGULATORY REQUIREMENTS

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life, or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#05-296(SWMB) [Amendments to 329 IAC 10 for C/D waste and changes to permitting requirements - Continuation of First Notice]

Marjorie Samuel
Rules, Planning and Outreach Section (MC 65-45)
Office of Land Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204-2251.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the eleventh floor reception desk, Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 232-3403, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Office of Land Quality's Rules, Outreach and Planning Section at (317) 232-7995.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by January 31, 2006.

Additional information regarding this action may be obtained from Kiran Verma, Rules, Outreach and Planning Section, Office of Land Quality, (317) 232-8899 or (800) 451-6027 (in Indiana).

Bruce H. Palin
Assistant Commissioner
Office of Land Quality